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Report of the Independent Expert on human rights and international solidarity

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the thematic report of the Independent Expert on human rights and international solidarity, Virginia Dadan, prepared pursuant to resolution 26/6. In that report, the Independent Expert presents a summary of the outcome of a series of mandated regional consultations on the proposed draft declaration on the right of peoples and individuals to international solidarity which was initially submitted to the Council in June 2014. The report highlights the comments and suggestions of a general nature that were gathered in the five regions between 2015 and early 2016, and contains in the conclusion the next steps forward.

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I. Introduction

1. The Human Rights Council, in its resolution 26/6, decided that the Independent Expert on human rights and international solidarity should convene a series of regional consultations in order to obtain input from as many Member States as possible on the proposed draft declaration she had previously submitted for the consideration of the Council at its twenty-sixth session, in June 2014 (A/HRC/26/34). The Council also requested the Office of the High Commissioner for Human Rights (OHCHR) to assist her in organizing those gatherings. In that regard, the Council, in the same resolution, further requested the Independent Expert to consolidate and consider the output from all the regional consultations; to submit to it, at its thirty-second session, a report on those consultations; and to submit to the Council and the General Assembly, before the end of her second term, a revised draft declaration.

2. The Independent Expert extends her gratitude to OHCHR for organizing the five regional consultations and for its full engagement during the proceedings in the regions. She presents below a summary of what transpired during the regional consultations.

A. Background of the regional consultations

3. One of the conclusions expressed by Rui Baltazar Dos Santos Alves in the working paper on human rights and international solidarity that he submitted to the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2004/43) was that international solidarity as an instrument for the attainment of human rights was a fact of international life that needed further development. In paragraph 37 (c) of the paper, Mr. Baltazar proposed a preliminary work plan, in which he recommended "studying the new international context, the new challenges and the need to define principles, objectives and priorities conducive to clarifying responsibilities in the field of international solidarity and human rights". That working paper and the subsequent work of the previous Independent Expert, Rudi Muhammad Rizki, were inspired by the historical and philosophical foundations of and, to a certain extent, the link to international law, and by the principle of international solidarity and its value in international relations, which would lay the basis for the right to international solidarity.

4. In her first report to the Council after her appointment as the second mandate holder for human rights and international solidarity, the current Independent Expert mapped out her work plan in three stages. Her work, in brief, would shift the focus from international solidarity as a principle to international solidarity as a right, in order to develop and work towards a draft declaration on the right of peoples and individuals to international solidarity. The process of developing and preparing the proposed draft declaration, leading to its subsequent submission in June 2014 to the Human Rights Council, is described in detail in the previous report of the Independent Expert (A/HRC/26/34). The draft, as it currently stands, is a consolidation of the work done by the present Independent Expert and her predecessor, as well as inputs and suggestions from States, civil society, experts from academia and the United Nations human rights mechanisms, including the Human Rights Council Advisory Committee.

5. The Council consequently decided that the text of the proposed draft declaration should be the focus of a series of the regional consultations, which were eventually conducted in 2015 and early 2016. Regional consultations were held with representatives of Western Europe and Other States, and of Eastern Europe States, in Geneva; African States in Addis Ababa; Latin American and Caribbean States in Panama City; Asia-Pacific States in Suva; and Middle Eastern and North African States in Doha.

B. Objectives and expected outcome

6. In configuring the regional consultations, the Independent Expert selected from the more challenging issues, which were translated into topics and themes on which the invited panellists were requested to speak, and on which other participants were encouraged to reflect, with a view to discussing and formulating suggestions and recommendations to improve the text of the proposed draft declaration. The expected outcome of each of the consultations was a compilation of inputs to guide the Independent Expert in the preparation of her summary report to the Human Rights Council at its thirty-second session, and to assist her in finalizing the proposed draft declaration.

7. The objectives of the regional consultation were to enable participants:

(a) To discuss the text of the proposed draft declaration with regard to its logic, structure and content;

(b) To provide concrete inputs regarding the text of the proposed draft declaration, with a view to clarifying issues that were seen to stem from the text;

(c) To put forward further recommendations for implementation on the ground of the right to international solidarity.

C. Format and modality

8. The two-day consultations consisted of a number of panel presentations and discussions. The participants were then invited to offer comments of a general nature and to freely discuss the concept, structure and substance of the proposed draft declaration. Panellists for each consultation were requested to speak on specific topics to initiate discussion. Where possible, experts were invited on the basis of their experience relating to the implementation of government policies, including in the areas of sustainable development, poverty reduction, food security, public health, international development cooperation, trade, finance, environmental protection, and natural disaster risk reduction and management. The consultations were conducted in English with simultaneous interpretation into the lingua franca of the region, where appropriate.

9. In each of the regional consultations, a representative of OHCHR was present to provide information on the concept and background of the consultations, formally introduce the Independent Expert and welcome the participants to the consultation. At the beginning of each consultation, after the opening session, the Independent Expert introduced the proposed draft declaration and explained the background, objectives and expected outcome of the consultation. She underscored that, because international solidarity was implemented through international cooperation, it was important to recall that the nature of international cooperation as a duty of States required the examination its impact on the capacity of States to comply with and to fulfil their international human rights obligations. The summary below does not include the introductory sessions.

10. The present report does not include the detailed inputs from the participants shared during the individual review of the articles contained in the draft text. These inputs will be reflected in the revision of the draft text before being presented to the Human Rights Council in 2017. Furthermore, in the interest of the objectives of the consultations, the present report provides only brief summaries of the presentations, to give ample space to the major highlights of the various comments and recommendations of a general nature on the concept, structure and substance of the proposed draft declaration during each of the five regional consultations.

II. Western European and other States region, and Eastern European region

11. On 20 and 21 April 2015, the regional consultation with representatives of Western European and other States, as well as Eastern European States, was convened by the Independent Expert in Geneva. The consultation was attended by 19 participants, among them representatives of six States, and the European Union, and experts from the United Nations treaty body system and from the Human Rights Council special procedure mechanisms. Representatives of OHCHR, members of civil society, including academia, and representatives of non-governmental organizations were also present.

12. Opening remarks were delivered by the Chief of the OHCHR Development and Economic and Social Issues Branch, who stressed that international solidarity was a crucial principle in addressing current global issues and tragedies. He stated that the time had come for a serious discussion on international solidarity and human rights, based on existing provisions of international human rights law. He reaffirmed the commitment of OHCHR to supporting that initiative and advancing international solidarity for the realization of all human rights—civil, political, economic, social and cultural, including the right to development.

A. Panel presentations and discussion on human rights and international solidarity

13. The presentations addressed issues relating to the foundations of international solidarity in existing international law; the extraterritorial application of human rights law to the issue of international solidarity; the rights and obligations arising from international solidarity; and international solidarity in the light of the International Covenant on Economic, Social and Cultural Rights.

14. During the presentations, it was reiterated that international solidarity was not limited to international assistance and cooperation, charity and humanitarian assistance. To illustrate the principle of international solidarity and its legal basis, details of various articles from international human rights treaties and relevant United Nations declarations and resolutions were extensively cited. The Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights were discussed to explain the potential and limitations of human rights law as it related to the extraterritorial obligations of States. Human rights law relating to international cooperation to combat poverty was identified as the area in which the extraterritorial obligation of the State to provide assistance to enable the realization of economic social and cultural rights could be established. Although a declaration on a right to international solidarity could be built around the existing framework of the law on cooperation that governed the relationship between States and the United Nations, framing it as a right remained challenging. It was stressed that, in order to promote the implementation of solidarity-based cooperation, due attention should be given to the principle of sovereignty. The jurisprudence of the Committee on Economic, Social and Cultural Rights was highlighted in relation to international cooperation as a duty of States. The Committee had constantly reiterated that international cooperation assistance had to be implemented within the framework of the systematic application of the core human rights principles.

15. After the panel presentations and discussion, participants were divided into groups to enable more in-depth discussions and to ensure active participation by all. The groups discussed integrating human rights in international cooperation and the role of international solidarity in the exercise and fulfilment of human rights.

B. Comments and recommendations of a general nature on the proposed draft declaration

16. The following are highlights of the major issues, comments and recommendations of a general nature on the concept, structure and substance of the proposed draft declaration:

(a) In general, the principle of international solidarity was closely linked to the international law of cooperation, but two important questions were raised from the outset. One was whether the purpose of the declaration was to establish a right to international solidarity as a claimable right or as a principle with moral force. The other was whether the right to international solidarity was a right from which to benefit or a right to demand the application of the principle of international solidarity;

(b) On the premise that a declaration on the right to international solidarity was premature at this point, the possibility of a step-by-step approach was discussed wherein there would first be a "declaration on international solidarity", which would be developed progressively and systematically to become a "declaration on the right to international solidarity";

(c) Extraterritorial obligations of States and national sovereignty were identified as key concepts in the discussion on a right to international solidarity. In that connection, it was highlighted that the process of developing a declaration on the right to international solidarity would encounter challenges, as it could be interpreted as an attempt to establish obligations for States to provide assistance, leading to a shift in the model of State cooperation as related to development assistance;

(d) A right to international solidarity could reinforce the principle of international solidarity, which was generally agreed upon. More than just being a principle, the right to international solidarity could be derived directly from the Charter of the United Nations and the Universal Declaration of Human Rights, which enshrined the values of the human family, as well as equality and equity. A right to international solidarity could therefore be developed as an enabling right for the fulfilment of all other human rights in the context of a globalized world;

(e) The draft declaration should explicitly refer to all international actors, including transnational businesses and intergovernmental organizations, and clearly articulate their roles and obligations;

(f) The right to international solidarity should be more precisely defined, identifying mechanisms for enforcement, inter alia, by developing guidelines describing the role of different stakeholders and giving clear examples of actions to enforce a right to international solidarity;

(g) The right to international solidarity should cover all human rights, including economic, social and cultural rights, as well as civil and political rights. The proposed draft declaration should also refer to intergenerational equity, which was a principle that needed to be strengthened in the international legal framework. Furthermore, a more general reference should be reflected in the text regarding the fundamental rights of women beyond those relating to gender-based violence;

(h) Although international solidarity was widely practised among States, it was important to stress that States had the primary responsibility for the human rights of individuals within their sovereign territory. Furthermore, doubts were expressed about whether the principle of international solidarity could be translated into the language of rights, since it was not perceived as meeting the requirement of a legal concept and that of a human right as such. It was also stated that the concept of international solidarity remained too vague. Concern was raised about whether such an attempt to formalize international solidarity as a human right would create the risk that rhetoric might take the place of legal content, therefore undermining the principle of international solidarity. It was suggested that the Independent Expert take into consideration the fact that, at present, there was no consensus within the Human Rights Council regarding the project of developing a draft declaration on the right of peoples and individuals to international solidarity;

(i) The text should be shortened and the preamble paragraphs reduced but devoted to laying out the existing legal framework and the rationale for a right to international solidarity. Definitions, including that of the principle of international solidarity, should be in the operational part of the declaration. Furthermore, the operational paragraphs should start by defining the right to international solidarity;

(j) The current structure of the proposed draft declaration was deemed to have too much resemblance to that of a convention, with the articles delineating rights and obligations. Use of a more traditional format for declarations would be more beneficial to the process. The text should be a clear statement, accompanied by a commentary, in the typical format of a United Nations declaration. It was added that guidelines might be useful to explain the practice of States and non-state actors in implementing international solidarity;

(k) The draft declaration should use more assertive and affirmative language, with precise references to existing instruments that embody the principle of international solidarity. The point was made that customary law that could be discerned based on the practices of States should be consolidated into a formal legal framework in the draft text.

III. African region

17. On 21 and 22 July 2015, the second consultation was convened by the Independent Expert in Addis Ababa, a few days after the conclusion of the third International Conference on Financing for Development, held in the same city from 13 to 16 July 2015. There were 30 participants, including representatives of 10 African States, the African Union Commission, the African Commission on Human and Peoples' Rights, United Nations entities, United Nations treaty bodies and civil society, including non-governmental organizations and academia.

18. The acting Regional Representative of OHCHR for East Africa delivered the opening remarks, welcoming the initiative to hold the consultation in Addis Ababa, where African cooperation and solidarity fell within the framework of the African Union. He affirmed the relevance and timeliness of the consultation in the light of recent events, including the Ebola crisis in West Africa. He added that international solidarity was closely linked to the current discussion on the post-2015 development agenda, and most especially to the issues discussed at the third International Conference on Financing for Development.

A. Panel presentations and discussion on human rights and international solidarity

19. Presentations were given on the topics of international human rights law and international solidarity; international solidarity as understood in the framework of the Convention on the Rights of the Child; international solidarity in international relations; financing for development and international solidarity; and international solidarity and climate justice.

20. The panel presentations, while providing an overview of the international legal framework for human rights and international solidarity, also covered the implications of international solidarity in related areas of concern. It was pointed out that international solidarity could be derived from traditional values such as the African world view known as *ubuntu*, which meant "I am who I am because of you". *Ubuntu* embodied solidarity as a principle that underpinned the African Charter on Human and Peoples' Rights. Relevant articles of the Convention on the Rights of the Child were discussed, especially the ones calling for international cooperation for the universal realization of the rights of the child as an obligation of States, not only at the national level but also outside their sovereign boundaries. Regional instruments were identified as key to the implementation of international solidarity as a bottom-up process. A panellist presented international solidarity as a core principle of the African Charter and indicated that the obligation of solidarity should be read along with article 29 of that Charter, which promoted African unity. While it was recognized once again that States were the primary duty bearers for the protection and promotion of all rights, the role of regional organizations in that regard was also highlighted.

21. Discussions on globalization touched on its definition as "the manner in which the world simultaneously grows closer together and further apart in economics, politics, communications and a host of other areas", implying that there were both positive and negative aspects to that phenomenon. In that connection, extraterritorial obligations were identified as serving a useful purpose, as they consolidated the obligations of States, both within and outside their geographic spheres of influence. During the discussion on the outcome of the third International Conference on Financing for Development, it was suggested that the text of the proposed draft declaration could capture the shortfalls that had been identified, including the lack of a firm commitment to structural change in development aid, for example in the effective implementation of the 0.7 per cent benchmark for official development assistance. Concern was raised about the consistent failure of international mechanisms to address key emerging challenges, such as the grave human rights impacts of climate change, that disproportionately affected vulnerable populations in countries with limited capacities and resources. In addition to efforts at the international level, cooperation needed to be established at the regional level, while integrating a human-rights-based approach in tackling the adverse effects of climate change.

B. Comments and recommendations of a general nature on the proposed draft declaration

22. The following issues, comments and recommendations of a general nature were highlighted:

(a) Four approaches were put forward for the Independent Expert to consider in moving the draft declaration forward: (i) understanding international solidarity as a precondition for the realization of rights wherein States should work together to achieve self-sufficiency; (ii) defining international solidarity solely as a principle which should

shape international relations and cooperation; (iii) posing international solidarity as a value, devoid of any legal content, wherein, although there was no legal duty on the part of various actors to take collective action, there was a moral obligation to do so, preconditioned on the premise that, as a moral rule of action, States should consider the impact of their action and non-action, and not only their own self-interest; and (iv) establishing international solidarity as a right, with clear reference to the extraterritorial obligations of States;

(b) In order to respond to the often expressed scepticism, it was suggested that existing and agreed upon international human rights language should be used in the proposed draft declaration;

(c) A greater emphasis on the extraterritorial obligations of States would benefit the proposed draft declaration and strengthen its added value;

(d) A proposal was put forward to identify States as being not only duty bearers but also rights holders. While attending States were generally in support of that idea, some scepticism was expressed from the perspective of international human rights law;

(e) A suggestion was made to slightly modify the title of the proposed draft declaration in order to move towards a consensus, by removing the reference to "peoples" and simply making a reference under the appropriate article describing rights holders;

(f) Another proposal was made to organize the draft text into four subheadings for enhanced clarity and to divide the text as follows: (i) the concept, principle and elements of international solidarity; (ii) the right to international solidarity, rights holders and duty bearers; (iii) implementation with a human-rights-based approach; and (iv) negative obligations;

(g) The preamble should be less dense but lay out additional references to very specific internationally agreed upon human rights provisions in order to recall that a right to international solidarity was directly derived from the existing legal framework. It was further suggested to consider the use of the term "positive solidarity" to distinguish it from negative solidarity, which led to human rights violations. In that context, a general reference to terrorism would be necessary as an example of negative solidarity;

(h) The term "non-state actors" was identified as potentially problematic in international human rights law. That concern needed clarification while taking into account that States were the subject of international law while non-state actors were not.

IV. Latin American and Caribbean region

23. On 22 and 23 September 2015, the third regional consultation was convened by the Independent Expert in Panama City. There were 35 participants, including 10 representatives of Latin American and Caribbean States, regional representatives of United Nations entities, including OHCHR, and representatives of academia and non-governmental organizations.

24. A representative of Panama delivered welcoming remarks, stating that, at the international level, solidarity must be seen as the way in which different States achieved cohesion and could accomplish common and collective goals. He underscored the great importance to Panama of the process of regional consultations on the proposed draft declaration and, as host of the event, invited the Latin American and Caribbean countries present to renew their commitment to cooperation and solidarity and to actively contribute during the consultation process.

25. The OHCHR Regional Representative for Central America, in her opening remarks, welcomed the initiative, which she noted was aimed at involving local, regional and international actors in the dialogue on human rights and on broader issues such as participation and international cooperation. She highlighted several of the regional and subregional mechanisms in Latin America and the Caribbean that could be considered positive examples of the practice of international solidarity through international cooperation.

A. Panel presentations and discussion on human rights and international solidarity

26. The first panel addressed the topics of international solidarity in international law, with perspectives from the Latin American and Caribbean region, and regional human rights cooperation from the perspective of the Inter-American Commission on Human Rights. The presentations highlighted how the region provided fertile ground for support for the proposed draft declaration, owing to several historical and cultural factors. Several crises in the region had served to galvanize States in the region to undertake collective action to help each other surmount challenges and difficulties, and illustrated that the practice of solidarity was not only possible but also effective. Presentations stressed that it was essential, while undertaking technical cooperation and international solidarity, to engage in meaningful consultation with local society and indigenous peoples. The view was expressed that the objective of international solidarity should be to prevent human rights denials and violations. It was also stated that, if human rights were truly at the centre of international initiatives, many of the current crises would not be persisting.

27. The second panel addressed the role of international solidarity in advancing socioeconomic development, solidarity and cooperation in environmental protection and climate change, and stakeholder participation in regional integration processes and international development cooperation.

28. The panellists discussed a number of issues relating to international solidarity in the region. Attention was drawn to the continuing need for debt relief in the Caribbean countries, and to the issue of lack of participation and transparency in setting taxation principles and standards. It was noted that international migration had to be given more prominence in the discourse on social protection. The Economic Commission for Latin America and the Caribbean had played a major role in promoting public policies that were based on equality, human rights and solidarity in the region, which arguably had the highest level of income inequality in the world. It was stressed that solidarity was needed first and foremost within societies at the country level. In that regard, it was remarkable that all mechanisms of regional integration in Latin America, from the oldest to the most recent, referred to the participation of civil society and other actors. Thus, the "multiple actors" dimension should be considered as a prominent element in the practice of solidarity in the region. It should also be recognized that the South-South cooperation model was the most notable contribution of the Latin American and Caribbean region to international development cooperation.

29. The third panel focused on the structural dimension of the realization of the right to international solidarity and the implementation of the "solidarity diplomacy" of Brazil. It was stressed that the reality of a country's economic situation played a key role in the capacity of the State to fulfil its international human rights obligations, especially its core obligations that were immediate, and the progressive realization of other rights. That reality was linked to the duty of international cooperation, which in human rights terms was undertaken precisely to assist a State that lacked the resources to comply with its human rights obligations. In that sense, the recognition of a right to international solidarity was

perceived as possibly leading towards the fulfilment of other human rights. The example was given of the inclusion of the right to food as a human right in the Constitution of Brazil in 2010 as a significant step towards the broader realization in the country of other rights as well. Brazil had put solidarity at the centre of its diplomatic practice through horizontal cooperation partnerships. The importance of decentralization was also stressed, with an emphasis placed on how non-state actors at the local level could more actively promote international solidarity as a tool for the exercise and fulfilment of human rights. Furthermore, humanitarian cooperation was identified as a better means than aid or assistance for undertaking collective action and building equal partnerships.

B. Comments and recommendations of a general nature on the proposed draft declaration

30. Highlights of the major issues, comments and suggestions of a general nature are summarized in the following paragraphs:

(a) A suggestion was made that the draft text should explicitly state at the outset that the purpose of international solidarity was to ensure the protection of human rights. That would establish the road map for the declaration and its content. The proposed draft declaration should be seen as seeking to transform the world instead of being perceived as seeking to "preserve the order", as the text currently states. The Independent Expert should recall the two elements that constitute international law in the Charter of the United Nations, namely its codification and progressive development, so that she could clearly articulate that the right to international solidarity was founded on the progressive development of law and was codified in international human rights treaties;

(b) Furthermore, it was proposed that the Independent Expert consider making a strategic decision on whether to follow a minimalist position in developing the text in order to have a "consensual common denominator", or strive for a more comprehensive text, in which case there might be a risk of losing broader consensus;

(c) The need for more conceptual clarity in the document was pointed out several times, since it was observed that the text was occasionally inconsistent and contradictory. In that regard, many participants expressed the view that the obligation of States and non-state actors would require further review for precision. The Independent Expert was once more advised to also refer to regional charters in the preamble, noting that several regional organizations, including the Organization of American States and the African Union, had incorporated the principle of international solidarity into their founding documents;

(d) Moreover, the preamble should indicate international instruments that addressed environmental rights and that made reference to international cooperation and solidarity, like the Rio Declaration on Environment and Development. Similarly, it was noted that the reference in the preamble and throughout the text should be to the broader aspects of climate change and not limited to global reduction of greenhouse gas emissions;

(e) In relation to structure and approach, it was recommended that the preamble be shortened, as it accounted for one fourth of the current text of the proposed draft declaration. In that regard, some elements of the preamble could be restated as operational paragraphs and dealt with more directly and be more action-oriented. The proposed draft declaration should be more concise in its wording and messages;

(f) It was suggested that references to both hard and soft international law, as well as to other sources of law, be included, such as the jurisprudence developed by the Committee on Economic, Social and Cultural Rights, which had contributed to the development of human rights. The jurisprudence of the Inter-American Court of Human

Rights, which had developed concepts closely linked to international solidarity, was also cited;

(g) The need for more precise identification of "non-state actors" was once more underscored. It was pointed out that the term could loosely apply to business entities, non-governmental organizations or even terrorist organizations. Non-state actors were once again said to not be typical actors in international law, and therefore the way they were currently referred to in the proposed draft declaration was not in line with international law. In that regard, international law and the rules of interpretation of the Vienna Convention on the Law of Treaties that established the obligations of States when discussing duty bearers should be carefully taken into account. It would be preferable for the subject of human rights to be individuals, peoples and communities, rather than the current list contained in the text;

(h) The general view was that, while the State could not be held responsible for acts or omissions of the private sector, it had the responsibility to enforce national laws and therefore the obligation to ensure that the private sector fulfilled its national and international obligations under labour, environmental and human rights law. The State was accountable when it failed to investigate, prevent or sanction the conduct of the private sector acting in its territory, in line with the existing jurisprudence of relevant human rights mechanisms;

(i) Differing positions were voiced by participants in relation to who was considered a rights holder. As in the consultation with African States, some were of the view that States should also benefit from the right to international solidarity, while others argued against the inclusion of the right of States to international solidarity in the context of that draft. It was further highlighted that, while States might wish to negotiate a convention on the right of States to international solidarity, it would need to be negotiated in another type of forum. Others expressed the view that the text should consider individuals as the sole rights holders;

(j) Finally, the importance of considering the issue of decentralization in the proposed draft declaration was again stressed, and it was argued that international solidarity should be recognized at all levels, most especially at the local level, where the right to participation was central to the practice of international solidarity.

V. Asia-Pacific region

31. The fourth regional consultation was convened by the Independent Expert in Suva from 18 to 19 November 2015. There were 18 participants, including a State representative, members of the national human rights institution of Fiji, representatives of United Nations agencies, including OHCHR, and civil society, including academia and non-governmental organizations.

32. Welcoming remarks were delivered by the OHCHR acting Regional Representative for the Pacific region, who underscored that the principle of international solidarity was especially relevant to the Pacific region, where low-lying coastal States were facing increasing challenges due to climate change. She noted that most Pacific States were in great need of support in building climate resilience and mitigating the impact of natural disasters, in addition to working towards meeting the Sustainable Development Goals. She stressed that environmental degradation and the resulting negative impact on the realization of human rights demanded collective action. Mention was made of the high risk of migration in the region due to natural disasters, which could possibly lead to further human rights violations, as receiving countries might struggle to cope with a significant influx of migrants. She expressed her deep appreciation to the Independent Expert for choosing to

hold her consultation in the Pacific, closer to the small island developing States that were often left out of international discussions mainly because of their remote location and the difficulty of travelling there.

A. Panel presentations and discussion on human rights and international solidarity

33. The first panel discussion addressed international human rights law and international solidarity, along with international cooperation and the duty of States regarding the realization of human rights. These presentations brought out a number of key points, including the fact that a right to international solidarity could be understood as a transformative toolkit, in the spirit of the new Sustainable Development Goals, for the implementation of international cooperation in the best interest of all, leaving no one behind. Solidarity was said to be part of the values of democratic societies and ultimately also reflected in the practices of States at the regional and international levels. From the perspective of international relations, there could be more than one understanding of the incentives or motivations of States with regard to cooperating in the field of human rights. From that followed the suggestion that it was important, while reviewing the draft declaration, to reflect on what incentives could be given to motivate States to uphold international solidarity. It was highlighted that, generally, agreements on solidarity only lasted as long as they benefited the parties engaged. For example, States might use advocacy for human rights to increase soft power, or might perceive solidarity and human rights as a means of enhancing their prestige or image.

34. The second panel focused on climate change and common but differentiated responsibilities, protecting cultural heritage from the adverse effects of climate change, international solidarity and the global partnership for development, accountability for international development funds, regional solidarity in relation to the Framework for Pacific Regionalism, and national solidarity and the role of civil society in building resilience. The presentations touched on various issues relevant to the Pacific region, some of them also linked to global issues. The view was expressed that the principle of common but differentiated responsibility with regard to environmental degradation, which embodied the principle of international solidarity, was a source of tension among States in the United Nations system. The notion of extraterritorial obligations of States also meant holding those responsible for environment-related crises in other countries accountable, including the so-called "big polluters" that were domiciled within those States. It was highlighted that environmental degradation could have an irreversible impact, leading to the loss of not only tangible cultural heritage, but also intangible cultural heritage, such as living traditions, through the movement and displacement of populations. Relocation of communities was identified as a possible cause of the loss of traditional cultural practices, collective identity and a sense of belonging. Moreover, the preservation of the cultural heritage of local communities was said to be a critical element in building resilience linked to disaster management and adaptation in response to extreme climate conditions. Adaptation also required a change in the way States interacted with each other; a right to international solidarity would provide lasting guiding standards. Examples were given of the work being done by Vanuatu to strengthen institutional capacity and good governance, including mechanisms for international aid accountability, through the insertion of anti-corruption clauses in aid agreements and the improvement of financial management and transparency concerning public aid. The Framework for Pacific Regionalism, adopted in 2014, was presented. It was underscored that the Framework articulated a regional vision integrating a set of regional values to guide policymaking and implementation, including the promotion and protection of human rights, to achieve the four goals of economic growth, sustainable development, good governance and security. Key features of that framework included the

emphasis on political decisions, and inclusiveness and consultation in framing policies for regional action, thereby promoting a participatory process. The establishment of a specialist advisory board, composed of independent representatives, to review proposals and define the agenda of the region was also mentioned. That approach was portrayed as reflecting solidarity at the regional level.

B. Comments and recommendations of a general nature on the proposed draft declaration

35. Highlights of major issues, comments and suggestions of a general nature are summarized as follows:

(a) It was said that the preambular paragraphs should provide an overview of the benefits of the draft declaration, and include how translating the principle of international solidarity into a right would add value to the human rights framework, making it more meaningful to people on the ground;

(b) Once more a proposition was made to include in the preambular paragraphs the outcomes of the more recent major United Nations conferences, such as the United Nations summit for the adoption of the post-2015 development agenda, the Climate Summit and the third International Conference on Financing for Development. The preambular paragraphs should also contain a rationale for how a right to international solidarity could provide a coherent conceptual and operational framework for regulating the spectrum of governance issues, including the negative impact of corruption and bad governance on development cooperation;

(c) It was stressed that mechanisms of accountability were key to ensuring that solidarity cooperation addressed inequality and discrimination and that development aid reached intended beneficiaries to fulfil its purpose. Thus, the principle of accountability should be given more prominence by referring to it in the preambular paragraphs. Specific applications of accountability could then be dealt with in the relevant articles;

(d) It was once again suggested to rearrange the operational paragraphs and place them under three or four appropriate subheadings for better conceptual logic and easier reading;

(e) The recurring concerns about non-state actors were again raised, with an emphasis on the need for the accountability of non-state actors to be differentiated from that of the state, and for the term to be more precisely defined;

(f) Considering the approach that national practices of solidarity could promote international solidarity, it was suggested that the proposed draft declaration refer specifically to the role of independent national human rights institutions in the protection and promotion of international solidarity at the national level;

(g) It was stressed that climate and environment issues linked to the extraterritorial obligations of States deserved a stand-alone paragraph under the operational paragraphs;

(h) The Independent Expert was requested to consider including in the draft, references to issues of foreign debt, as well as the rights of women and lesbian, gay, bisexual, transgender and intersex persons.

VI. Middle East and North Africa region

36. The fifth and last consultation, for the Middle East and North Africa Region, was convened by the Independent Expert on 11 and 12 January 2016 in Doha. Participants from Asia who had been unable to join the Asia-Pacific consultation were also invited to attend. There were 33 participants, including representatives of 11 States, the National Human Rights Council of Morocco, the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights and the Indonesian national commission for human rights, as well as United Nations experts and representatives of OHCHR and civil society, including academia and non-governmental organizations.

37. In giving welcoming remarks, the chief of the Middle-East and North Africa Branch of OHCHR underscored how the consultation presented a good opportunity to address the conceptual and practical challenges of international solidarity, a principle that underpinned many international provisions, including human rights law.

38. Opening remarks were made by the Director of the Human Rights Department of the Ministry of Foreign Affairs of Qatar. He highlighted that, in the spirit of the new 2030 Agenda for Sustainable Development, according to which no one should be left behind, the foreign policy of Qatar was aimed at advancing international cooperation for the realization of global peace and security, as well as enhancing development through a human-rights-based approach.

A. Panel presentations and discussion on human rights and international solidarity

39. The presentations of the first panel addressed the existing legal framework on human rights and international solidarity; international cooperation for the realization of human rights and the extraterritorial obligations of States in the field of human rights; international sustainable development law and the principle of international solidarity; and international solidarity and its role in the work of regional human rights mechanisms.

40. In the presentations, international human rights law was once again revisited in the context of the place of international solidarity in today's global challenges. It was said that solidarity had evolved positively over time, away from a purely individual and charitable perspective into an explicitly recognized and valued element of social cohesion at the national level. The difficulty of putting solidarity into practice at the international level did not derive from the lack of a legal framework but rather from a limited understanding of the need and the potential of international solidarity for all countries, and the lack of political will on the part of States to undertake all measures necessary to make human rights a reality for the everyday lives of everyday people. Yet, the Universal Declaration of Human Rights had set out for the first time that fundamental human rights were to be universally protected and that everyone was entitled to a social and international order in which the rights and freedoms set forth in the Declaration could be fully realized. The International Covenant on Economic, Social and Cultural Rights, in which a number of those rights had been codified, required States parties to achieve progressively the full realization of the rights recognized in the Covenant by all appropriate means, including in particular the adoption of legislative measures. International human rights law was not the sole source of the extraterritorial obligations of States and their constituent parts. Looking at international norms as an integrated system, one found multiple sources of legal regimes that supported the notion of an obligation to govern cross-border relationships in a way that was consistent with international law and world order. From those could be inferred a right borne by all, in particular victims of gross human rights violations, to effective countermeasures. Local governments had developed practices in the exercise of their extraterritorial obligations

through the application of non-recognition and non-cooperation with state and non-state actors who were in violation of international human rights standards. Concrete examples were provided to illustrate the assertion that the evolution of international solidarity was at an important crossroads. The point was also made that solidarity was just as essential to implementing two other principles presently not covered in the draft declaration: common but differentiated responsibilities for the global environment, and responsibility-sharing with regard to refugees. Both of those principles were significant in the context of the Middle East and North Africa region, which had the largest forcibly displaced population in the world, as had already been the case even before the Syrian conflict. There was an urgent need for solidarity and the honouring of international commitments under the United Nations Convention relating to the Status of Refugees of 1951. It was highlighted that the majority of refugees in the current crisis were being helped by the poorer nations of the world; those least able to do so were the ones taking action.

41. The four priority areas of ASEAN were delineated as including migration, particularly irregular migration, environmental issues, territorial conflicts and the rising threat of terrorism in the region. It was said that a right to international solidarity might face a negative fate if not reconciled with the principle of sovereignty. It was pointed out that there was no explicit reference to regional organizations and mechanisms in the current draft, be they supranational or intergovernmental, which should be considered and more explicitly identified as duty bearers, with a view to enhancing their role in promoting international solidarity. It was stressed that valuable lessons could be learned from the experiences of other regions in dealing with those issues. Further suggestions were made to include relevant provisions from regional mechanisms. Reference was made to the African Charter on Human and Peoples' Rights, especially to its provision stipulating that "the free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law".

42. The presentations in the second panel were on the role of national human rights institutions in the promotion of international solidarity; solidarity and environmentally sustainable development goals; and women and children in cross-border migration. During the discussions, it was pointed out that the role of national human rights institutions could be of particular importance with regard to preventive solidarity to safeguard human rights, particularly in three areas: education and awareness raising, engagement in legislative and policymaking processes, and monitoring. Attention was called to the importance of linking the work of national human rights institutions at the international and regional levels and enhancing cross-border networks of national human rights institutions. The view was expressed that the environment should be perceived as a global public good and that related issues should be addressed with the active involvement of all parties through partnerships based on equal and cooperative relationships. The need for the response of civil society to global issues to be coordinated and strong partnerships developed at the grass-roots level, with a view to more effectively promoting the realization of sustainable development goals and international solidarity from the ground up, was further underscored. The presentation of international solidarity with regard to migration focused on the phenomenon labelled as the externalization of borders, whereby some States required neighbouring countries to exercise migration control in order to contain the influx of migrants. It was argued that this type of partnership led to human rights violations and should therefore be denounced as undesirable solidarity.

B. Comments and recommendations of a general nature on the proposed draft declaration

43. The following are highlights summarized from the comments and recommendations of a general nature, in particular those which should be included in the text of the proposed draft declaration:

(a) It was once again suggested to take full advantage of the new 2030 Sustainable Development Agenda, especially goal 17, to advocate for the relevance of the proposed draft declaration. Specific mention should be made of the importance of international solidarity in addressing violence, extremism and terrorism. The need to address the roots of those problems to sustain world peace should be stressed. A proposal was made that a reference to individuals and peoples under occupation should be included and that a specific mention should be made of refugees as being among the rights holders;

(b) It was stressed that international solidarity should be understood as the confirmation of the already recognized necessity for a just international order, one that promoted common development for all countries, based on sustainability, taking into account the needs, capacities and interests of each region and country, with common but differentiated responsibilities;

(c) The title "right of peoples and individuals to international solidarity" was said to be more appropriate than the proposal to change it to "the right to international solidarity". As a human right for all, international solidarity would establish responsibilities not only for States, but also for international organizations, peoples, individuals, civil society and the private sector;

(d) It was said that the promotion of international solidarity must be carried out by States and non-governmental organizations, principally through human rights education and the recognition of the right to international solidarity as a fundamental human right. The right to information on global actions and commitments was a shared responsibility of state and non-state actors, which in turn led to the accountability of States, including not only their actions within their own national boundaries but also their foreign actions and the actions of international organizations of which they were a member;

(e) The preamble should serve to explain the gains to be made by developing a right to international solidarity, including its potential impact on the realization of human rights. In that context, it was important to refer in the second paragraph of the preamble to the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights;

(f) International humanitarian law should be included in the proposed draft declaration. There was a need for the draft to cover all common global concerns, including security concerns, in addition to economic, social and cultural rights;

(g) The principle of common but differentiated responsibility should be used to clearly define international solidarity. International solidarity could be part of a fourth generation of rights calling for a new international order;

(h) Any collective action undertaken for the sake of international solidarity should advance the principles within the bounds of the Charter of the United Nations. The proposed draft declaration should explicitly state that international solidarity cannot be invoked and utilized in any way or by any actor to undermine human rights or to breach international human rights treaties;

(i) The principles of business and human rights should be reflected in the draft text and be linked to the responsibilities of private actors;

(j) Additional reference to General Assembly resolution 2625 (XXV), on the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, as well as a reference to the unitary system of international law and peremptory norms, without having to name all of them specifically, would be beneficial. It was stressed that the international legal system was aimed at the people who were served by States and that therefore people and individuals should remain the rights holders and States the duty bearers;

(k) Finally, it was noted once again that there should be a more precise definition of non-state actors. Civil society, including its responsibility with regard to promoting and building international solidarity, should also be better reflected in the draft, and in the operational paragraphs rather than in the preamble.

VII. Conclusions

44. The Independent Expert on human rights and international solidarity has summarized in the present report the proceedings of the five regional consultations on the proposed draft declaration. She wishes to express her gratitude to all those who participated in the consultations: the States who sent their representatives; the independent experts of the United Nations treaty body system and Human Rights Council special procedures mechanisms; representatives of the United Nations entities, including the Office of the United Nations High Commissioner for Human Rights; and the human rights experts from regional and national institutions, academia and non-governmental organizations. The Independent Expert expresses her gratitude for their cooperation, assistance and willingness to engage, and for the invaluable contributions they have made to this project.

45. The next step in the way forward in the work of the mandate of human rights and international solidarity is to systematically organize the comments and recommendations of a general nature on the concept, structure and substance of the proposed draft declaration, and the specific inputs resulting from the review of articles conducted in each of the five regional consultations. This consolidation is under way, while at the same time the Independent Expert has been reflecting on each comment and recommendation and giving consideration to the value it will add to refining the proposed draft declaration.

46. The Independent Expert will consult and seek advice on issues relating to which there may be conflict of opinion and/or issues of a legal nature may be involved. She will then make a first attempt to revise the proposed draft declaration, informed by the outcomes of the five regional consultations, as appropriate. Subject to the availability of resources, the Independent Expert would like to convene an expert meeting to examine the first revision of the document, with a view to giving specific recommendations for its finalization before submission of a final draft declaration by the end of her term in June 2017, as requested by the Human Rights Council in its resolution 26/6.

47. The Independent Expert has noted a number of recurring issues that have emerged from the regional consultations which have not been resolved, including the qualification of "non-state actors" and the identification of rights holders and duty bearers as having the right to international solidarity, and also the definition of the right itself. The Independent Expert will give due consideration to all the recurring issues and invite further inputs and suggestions in this regard. She will explore these

issues and their implications in the context of the proposed draft declaration in a future thematic report.

48. The Expert will continue her consultations with States and other stakeholders. She looks forward to their invaluable support, cooperation and assistance during the process leading to the final draft declaration.